

28/5/05

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IN THE HIGH COURT OF JUDICATURE AT BILASPUR: C.G.  
M.A. NO. 312 OF 2005

Division Bench

MISCELLANEOUS APPEAL UNDER SECTION 173,  
MOTOR VEHICLES ACT, 1988.

Appellant:

✓ United India Insurance Co. Ltd.,  
Divisional Office, Cutuchery Chowk, Jail Road,  
Raipur.

Non-applicant - 3

Versus

Respondents:

- ✓ 1) Videshiram Vishvakarma, 35 years, S/o Shauku  
Lohan, Tractor Driver,  
R/o Tamasiviny, Thana Aarang, District Raipur.  
✓ 2) Tek Singh S/o Heera Singh (Owner)  
R/o Tamasiviny, Thana Aarang, Tahsil & District  
Raipur.

Non-applicants - 1 & 2

- ✓ 3) Smt. Premeen Bai, aged 20 years Wd/o Duryodhan  
Tarak,  
✓ 4) Tameshwar, aged 5 months (Minor),  
S/o Duryodhan Tarak,  
Through Vali Mother, Premeen Bai,  
Both R/o Village Rasni, Thana & Tahsil Aarang,  
District Raipur.  
✓ 5) Parau Ram, S/o Lakhanlal Tarak, aged 42  
years.  
✓ 6) Phekan Bai W/o Lakhanlal Tarak, aged 63 years,  
Nos. 5 & 6 R/o Village Tamasivni, Thana Aarang,  
Tahsil & District Raipur.

P.R. No. 675/05  
Presented by P. S. Singh  
dated 20/5/05

--- Applicants

Claim in appeal for setting aside and/or, modified the  
award, valued at Rs. 2,11,000/-.

Fixed Court Fee affixed at Rs. 15/-.  
(Receipt regarding deposition of Rs. 25,000/- is being  
filed herewith)

Being aggrieved by award, dated 08.12.2004, in claim  
case 120/2004 passed by the II<sup>nd</sup> Additional Motor  
Accident Claims Tribunal, Raipur, the appellant  
prefers this miscellaneous appeal on the following  
facts and grounds:

मामला क्रमांक ..... M.A. No. 312/05 ..... सन् 200

## आदेश पत्रक (पूर्वानुबद्ध)

| आदेश का दिनांक<br>तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार<br>के अन्तिम आदेश |
|------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|
|                                    | <p><b><u>DIVISION BENCH</u></b></p> <p><b><u>HON'BLE SHRI S.R. NAYAK, C.J.</u></b><br/><b><u>&amp; HON'BLE SHRI FAKHRUDDIN, J.</u></b></p> <p><b><u>18-11-2005 :-</u></b></p> <p><b><u>M.A. No.312 of 2005:</u></b></p> <p>Heard Mr. Sanjay S. Agrawal learned counsel for the appellant/United India Insurance Co. Ltd...</p> <p>While attacking the award passed by the MACT the only ground urged by the learned counsel for the appellant/Insurance Company is that the policy issued by his client did not cover the risk of the deceased. It was contended that the bricks were being transported in the insured vehicle and, therefore, the transportation could not be regarded as the one in connection with or relating to agricultural operation.</p> <p>We have carefully perused the pleadings in that regard as set out in the written statement filed by the Insurance Company. If we may so as may it could be, it is not stated that the bricks were being transported on hire basis and in that connection the services of the deceased were engaged as coole. In the absence of the proper pleading in that regard, there was no occasion for the Tribunal to frame an issue in that regard. Therefore, the contention of the learned for the appellant/Insurance Company that the policy issued by the appellant/Insurance Company does not cover the risk of the deceased, is not acceptable to us.</p> |                                                           |

मामला क्रमांक M.A. No. 312/05 सन् 200

## आदेश पत्रक (पूर्वानुबद्ध)

| आदेश का दिनांक<br>तथा आदेश क्रमांक | हस्ताक्षर सहित आदेश (2)                                                                                                                                                                                                                | कार्यालयीन मामलों में डिप्टी रजिस्ट्रार<br>के अन्तिम आदेश |
|------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------|
| 2                                  | <p>The appeal is devoid of merit and it is accordingly dismissed at the stage of admission itself.</p> <p>Consequently, M.(C.)P. No.397 of 2005 and I.A. No.713 of 2005 stand disposed of.</p> <p>Sd/-<br/>Chief Justice<br/>Judge</p> | <p>Sd/-<br/>Fakhruddin<br/>Judge</p>                      |

BM/s

23/1/05